

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

HUMBERTO B. ZAMORA,  
Petitioner,  
vs.  
STATE OF WASHINGTON,  
Respondent.

NO. CV-11-164-JPH

ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
DISMISSING PETITION AS UNTIMELY

Due to clerical error, the Order filed August 19, 2011 (ECF No. 26), adopting the Report and Recommendation to Deny Petitioner's Motions for Appointment of Counsel (ECF No. 5) and for an Evidentiary Hearing (ECF No. 6), was filed in error. It is duplicative of the Order filed on August 8, 2011 (ECF No. 24). Therefore, **IT IS ORDERED** the District Court Executive shall **STRIKE** the Order filed August 19, 2011 (ECF No. 26).

Magistrate Judge Hutton filed a Report and Recommendation on August 9, 2011 (ECF No. 25), recommending Mr. Zamora's Petition for Writ of Habeas Corpus be dismissed with prejudice as untimely, and his Motion for Order to Show Cause (ECF No. 19) be denied as moot. That Motion was Petitioner's Response to the Order to Show Cause filed July 11, 2011 (ECF No. 16), rather than an actual motion.

Mr. Zamora has filed no objections. Therefore, the court **ADOPTS** the Report and Recommendation (ECF No. 25). The Petition is **DISMISSED WITH PREJUDICE** as  
**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING  
PETITION AS UNTIMELY-- 1**

1 time-barred under 28 U.S.C. § 2244(d), and the pending Motion (ECF No. 19) is  
2 **DENIED as moot.**

3 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
4 Order, enter judgment, forward a copy to Petitioner and close the file. The court further  
5 certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not  
6 be taken in good faith, and there is no basis upon which to issue a certificate of  
7 appealability. 28 U.S.C. § 2253(c); Fed. R.App. P. 22(b).

8 **DATED** this 26th day of August, 2011.

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10 *s/Lonny R. Suko*

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LONNY R. SUKO  
12 UNITED STATES DISTRICT JUDGE  
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